

# Exhibit 1

SUMMONS

KEITH TARGGART, In the DeKalb County \_\_\_\_\_ Court  
Plaintiff, Cause No.

vs.

XY TOOL & DIE, INC.,  
Defendant.

TO DEFENDANT: Name - XY TOOL & DIE, INC.  
c/o Mark A. Warsco as Registered Agent  
Address: 505 East Washington Boulevard  
Fort Wayne IN 46802

You are hereby notified that you have been sued by the person named as plaintiff and in the Court indicated above.

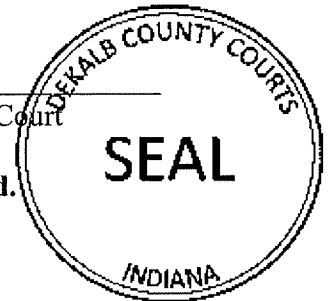
The nature of the suit against you is stated in the complaint which is attached to this Summons. It also states the relief sought or the demand made against you by the plaintiff.

An answer or other appropriate response in writing to the complaint must be filed either by you or your attorney within twenty (20) days, commencing the day after you receive this Summons, (or twenty-three (23) days if this Summons was received by mail), or a judgment by default may be rendered against you for the relief demanded by plaintiff.

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Dated: 9/9/2019

*Harry A. Albright*  
Clerk, DeKalb County \_\_\_\_\_ Court



The following manner of service of summons is hereby designated.

- XX Registered or certified mail.  
\_\_\_\_\_ Service at place of employment, to wit: \_\_\_\_\_  
\_\_\_\_\_ Service on individual – (personal or copy) at above address.  
\_\_\_\_\_ Service on agent. (specify) \_\_\_\_\_  
\_\_\_\_\_ Other service. (specify) \_\_\_\_\_

Weldy Law  
Ronald E. Weldy  
Attorney for Plaintiff, Keith Targgart

Address: 8383 Craig Street  
Suite 330  
Indianapolis, IN 46250

RETURN ON SERVICE OF SUMMONS BY MAIL

The undersigned certifies that a copy of this Summons and a copy of the Complaint/Petition was mailed on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 to the person to be served identified on the face hereof by certified United States Mail, return receipt requested to the address stated on the face of this Summons.

\_\_\_\_\_  
CLERK OF DEKALB COUNTY

The undersigned certifies that the return receipt was received by me from the above mailing indicating:

\_\_\_\_\_ That service was accepted by the person to be served identified on the face hereof on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_ That service was accepted by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_ That service was not accepted and counsel for the Plaintiff/Petitioner was notified thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
CLERK OF DEKALB COUNTY

STATE OF INDIANA ) DEKALB COUNTY \_\_\_\_\_ COURT  
 )SS:  
 COUNTY OF DEKALB ) CAUSE NO.

KEITH TARGGART, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 XY TOOL & DIE, INC., )  
 )  
 Defendant. )

### **COMPLAINT FOR DAMAGES**

Plaintiff, Keith Targgart, for his complaint against Defendant, XY Tool & Die, Inc., states the following:

#### **I. Parties**

1. Plaintiff is a resident of Chrbusco, Indiana.
2. Defendant is a corporation with a facility in DeKalb County at all times that are relevant to this action.

#### **II. Factual Allegations**

3. Plaintiff was an employee of Defendant.
4. Plaintiff began working for Defendant on November 4, 1995.
5. At some point in time, Plaintiff started making sales for Defendant.
6. As a salesman, Defendant agreed to pay Plaintiff \$27.00 per hour.
7. Defendant also agreed to pay Plaintiff a 1% commission on all sales made.
8. Defendant paid Plaintiff his hourly wages on a weekly basis.
9. Defendant paid Plaintiff his commission wages on a monthly basis.

10. All commissions earned during the previous month were paid on the first (1<sup>st</sup>) of the following month.

11. Plaintiff quit his employment with Defendant on May 14, 20019.

### **III. Cause of Action**

#### **Count I**

#### **Failure to Pay Overtime Wages Pursuant to the FLSA, 29 U.S.C. §201 *et. seq.***

12. Plaintiff incorporates paragraphs 1 through 11 by reference herein.

13. Plaintiff was an employee of Defendant pursuant to the FLSA.

14. Plaintiff's work for Defendant involved interstate commerce.

15. Defendant is an employer pursuant to the FLSA.

16. Defendant had gross revenues of at least \$500,000.00 for the 2015 calendar year.

17. Defendant had gross revenues of at least \$500,000.00 for the 2016 calendar year.

18. Defendant had gross revenues of at least \$500,000.00 for the 2017 calendar year.

19. Defendant had gross revenues of at least \$500,000.00 for the 2018 calendar year.

20. Plaintiff worked overtime hours for Defendant.

21. Defendant paid Plaintiff time and a half of his hourly rate as overtime pay.

22. Defendant did not take into account commissions earned by Plaintiff to determine his proper overtime rate.

23. Defendant willfully failed to properly pay all overtime wages earned by Plaintiff by failing to account for Plaintiff's commissions wages.

24. Defendant's violations of the FLSA have damaged Plaintiff.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendant for wages owed, liquidated damages, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully submitted,

WELDY LAW

/s/Ronald E. Weldy

Ronald E. Weldy, #22571-49

**Count II**  
**Wage Payment Statute, I.C. §22-2-5 *et. seq.***

25. Plaintiff incorporates paragraphs 1 through 24 by reference herein.
26. Defendant is an employer pursuant to the Wage Payment Statute.
27. Plaintiff was an employee of Defendant.
28. Defendant failed to pay Plaintiff his wages due and owing in the correct amount.
29. Defendant failed to pay Plaintiff his overtime wages in the correct amount.
30. Defendant failed to pay Plaintiff his commission wages to be paid on May 1, 2019.
31. Defendant failed to pay Plaintiff his commission wages to be paid on June 1, 2019.
32. Plaintiff has been damaged by Defendant's violations of the Wage Payment Statute.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendant for wages owed, liquidated damages, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully submitted,

WELDY LAW

/s/Ronald E. Weldy

Ronald E. Weldy, #22571-49

**Count III  
Breach of Contract**

33. Plaintiff incorporates paragraphs 1 through 32 by reference herein.

34. Defendant agreed to pay Plaintiff 1% of his sales as commissions.

35. Defendant breached its oral contract with Plaintiff by failing to pay his sales commissions due and owing on May 1, 2019.

36. Defendant breached its oral contact with Plaintiff by failing to pay his sales commissions due and owing on June 1, 2019.

37. Plaintiff has been damaged by Defendant's breaches of contract.

WHEREFORE, Plaintiff prays that the Court enter a Judgment in favor of Plaintiff and against Defendant for wages owed, prejudgment interest, attorney fees, costs of this action, and for all other relief which is just and proper in the premises.

Respectfully submitted,

WELDY LAW

/s/Ronald E. Weldy

Ronald E. Weldy, #22571-49

Counsel for Plaintiff,

Keith Targgart

Weldy Law - 8383 Craig Street, Suite 330, Indianapolis, IN 46250

Tel: (317) 842-6600, E-mail: [rweldy@weldylegal.com](mailto:rweldy@weldylegal.com)

STATE OF INDIANA	)	IN THE DEKALB SUPERIOR COURT 1
	) SS:	
COUNTY OF DEKALB	)	CAUSE NO. 17D01-1909-PL-000040
KEITH TARGGART,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
XY TOOL & DIE, INC.	)	
	)	
Defendant.	)	

**ORDER**

Defendant, X-Y Tool & Die, Inc., having filed its Motion for Enlargement of Time, and the Court, having considered the same and being duly advised in the premises, hereby GRANTS said Motion.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant, X-Y Tool & Die, Inc., is granted to and including November 4, 2019, in which to answer or otherwise respond to Plaintiff's Complaint for Damages.

Dated: 10/7/19

Kevin Wallace  
Judge, DeKalb Superior Court

Distribution:

Ronald E. Weldy  
Theodore T. Storer/Lauren R. Minke

**KEITH TARGGART v. XY TOOL & DIE, INC.**

Case Number 17D01-1909-PL-000040  
Court DeKalb Superior Court 1  
Type PL - Civil Plenary  
Filed 09/07/2019  
Status 09/07/2019 , Pending (active)

**Parties to the Case**

Defendant XY TOOL &amp; DIE, INC.

Attorney

Lauren R Minke  
#3398964, Lead, Retained

505 East Washington Blvd.  
Fort Wayne, IN 46802  
260-422-9454(W)

Attorney

Theodore Thomas Storer  
#1757602, Retained

Rothberg Logan & Warsco LLP  
505 E Washington Blvd  
Fort Wayne, IN 46802  
260-422-9454(W)

Plaintiff TARGGART, KEITH

Attorney

Ronald E Weldy  
#2257149, Retained

8383 Craig Street Suite 330  
Indianapolis, IN 46250  
317-842-6600(W)

**Chronological Case Summary**

09/07/2019 Case Opened as a New Filing

09/09/2019 Complaint/Equivalent Pleading Filed

Complaint for Damages

Filed By: TARGGART, KEITH

File Stamp: 09/07/2019

09/09/2019 Appearance Filed

Notice of Appearance

For Party: TARGGART, KEITH

File Stamp: 09/07/2019

09/09/2019 Subpoena/Summons Filed

Summons

Filed By: TARGGART, KEITH

File Stamp: 09/07/2019

09/12/2019 Service Returned Served (E-Filing)

Notice of Service

Filed By: TARGGART, KEITH

File Stamp: 09/12/2019

09/30/2019 Appearance Filed

Appearance of Theodore T. Storer

For Party: XY TOOL &amp; DIE, INC.

File Stamp: 09/30/2019

09/30/2019 Appearance Filed

Appearance of Lauren R. Minke

For Party: XY TOOL &amp; DIE, INC.

File Stamp: 09/30/2019

09/30/2019 Motion for Enlargement of Time Filed

Motion for Enlargement of Time

Filed By: XY TOOL &amp; DIE, INC.

File Stamp: 09/30/2019

10/07/2019 Order Granting Motion for Enlargement of Time

Movant: XY TOOL &amp; DIE, INC.

Noticed: Weldy, Ronald E

Noticed: Minke, Lauren R

Order Signed: 10/07/2019

10/08/2019 Automated ENotice Issued to Parties

Order Granting Motion for Enlargement of Time ---- 10/7/2019 : Lauren R Minke;Ronald E Weldy

**Financial Information**

\* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

**TARGGART, KEITH**

Plaintiff

Balance Due (as of 10/11/2019)

0.00

**Charge Summary**

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

**Transaction Summary**

Date	Description	Amount
09/09/2019	Transaction Assessment	157.00
09/09/2019	Electronic Payment	(157.00)

USDC IN/ND case 1:19-cv-00437 document 1-1 filed 10/11/19 page 11 of 11  
This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.